

**STATE OF WEST VIRGINIA  
LAND SALES AND CONDOMINIUM DIVISION  
BEFORE THE LAND SALES AND CONDOMINIUM DIRECTOR  
CHARLESTON, WEST VIRGINIA 25305**

**IN THE MATTER OF:**

**CASE NO.: 11-0060**

**JOHN DOE A/K/A  
CHARLES MURRAY,  
JANE DOE A/K/A KIM  
BOYD, and OTHER UNKNOWN  
INDIVIDUALS D/B/A  
KEY PROPERTY  
MARKETING**

**SUMMARY ORDER TO CEASE AND  
DESIST, SUSPENDING EXEMPTIONS  
AND NOTICE OF RIGHT TO  
HEARING**

**RESPONDENTS.**

**SUMMARY ORDER**

**WHEREAS**, pursuant to the authority granted by the West Virginia Real Estate Time-Sharing Act, (hereinafter "the Act")(Article 9, Chapter 36 of the West Virginia Code, W. Va. Code 36-9 (2011)), the Division of Land Sales and Condominiums under the State Auditor (hereinafter "Division") has investigated the activities of the above named entities and individuals (hereinafter "Respondents").

**WHEREAS**, as a result of the Division's investigation, the Director of the Land Sales and Condominium Division, by the authority vested in him by Chapter 36, Article 9, Section 23 of the Act, finds as follows:

**RESPONDENTS**

1. "Key Property Marketing" (hereinafter "Respondent KPM") is an entity with the last known address of: 4770 Indianola Ave., Columbus, Ohio 43214.
2. Individuals calling themselves "Kim Boyd" and "Charles Murray," represented themselves to be employees of Respondent KPM. There are no known addresses or phone numbers for either of the alleged employees. Certified letters to all Respondents have been returned. (Letter attached as Exhibit 1).

**FINDINGS OF FACT**

3. Paragraphs 1 and 2 are incorporated by reference as if fully set forth herein.
4. Individual identifying herself as "Kim Boyd" cold-called a West Virginia citizen to solicit and offer timeshare resale services.

5. The West Virginia citizen was, at the time of the solicitation, the current owner of a timeshare unit located in Mexico (hereinafter, "Owner").

6. "Kim Boyd," along with "Charles Murray," each solicited and offered Respondent KPM's timeshare resale services via telephone over the course of weeks. During the telephone conversations with the West Virginia citizen, Boyd and Murray made the following representations:

- a. "Kim Boyd" and "Charles Murray" were employees of Respondent KPM;
- b. Respondent KPM is a time-share resale company.
- c. "Kim Boyd" and "Charles Murray" have, on behalf of Respondent KPM, procured an international buyer for the timeshare owned by the West Virginia Owner.
- d. There would be no "up front" costs associated with the resale of the citizen's timeshare unit.

7. After the contract (Attached as Exhibit 2) was signed, a request for the "federal taxes" on the transaction was sent to the West Virginia citizen.

8. In order to complete the resale to the international buyer, Respondents represented that the Owner must pay the federal taxes on the transaction, totaling four-thousand one-hundred and twelve dollars (\$4,112.00).

9. After the "federal taxes" were paid, Respondents further alleged that the "state taxes" on the transaction must be paid by West Virginia Owner, totaling four-thousand eighty-nine dollars (\$4,089.00).

10. After receipt of the "state tax" request, the Owner attempted to cancel the transaction immediately.

11. There was no further contact or communication between the parties after the attempted cancellation, despite attempts by the West Virginia Owner via telephone, e-mail, and United States mail.

12. No payment, in any amount, was ever received by the West Virginia Owner, and no actual sale or resale of the timeshare unit was ever executed.

13. The West Virginia Owner was never advised, either through contract or verbal communication, of the right to cancel or the statutorily acceptable time-frame in which to cancel the contract for sale or resale.

#### CONCLUSIONS OF LAW

14. Paragraphs 1 through 13 are incorporated by reference as if fully set forth herein.

15. Respondents violated West Virginia Code § 36-9-5 by failing to furnish a complete copy of the contract, containing all the required information and statements, pertaining to the sale or resale of the time-share plan.

16. Respondents violated West Virginia Code § 36-9-5 by failing to utilize a complete contract pertaining to the sale or resale of the time-share plan. The contract must have contained (a) the dates of execution of the contract, (b) the names and addresses of the seller, the developer and the time-sharing plan, (c) the total financial obligation of the purchaser, including the initial purchase price and any additional charges to which the purchaser may be subject (such as reservation, maintenance, management and recreation fees)<sup>1</sup>, (d) the estimated date of availability of each accommodation or facility which is not completed at the time the contract is executed by the seller and purchaser, (e) a description of the nature and duration of the time-share period being sold, including whether any interest in real property is being conveyed and the specific number of years or months constituting the terms of the contract, (f) a conspicuous, recognizable disclosure of the availability of cancellation, in large, bold-face type, (g) a statement that oral representations cannot be relied upon and that the seller makes no representations other than those contained in the contract, (h) A statement that, in the event the purchaser cancels the contract during a ten-day cancellation period, the developer shall refund to the purchaser all payments made under the contract within twenty days after notice of cancellation is received.

17. Respondents violated West Virginia Code § 36-9-5 by failing to furnish a complete copy of the contract for sale to the purchaser at least ten days before the date of closing.

18. Respondents violated West Virginia Code § 36-9-9(b) by misrepresenting the purchaser's right to cancel.

19. Respondents violated West Virginia Code § 36-9-10(b) by misrepresenting facts and/or creating a false or misleading impression regarding the time sharing plan.

### ORDER

The Director, pursuant to the powers granted in the West Virginia Code § 36-9-1, *et. seq.*, **ORDERS** that:

1. Respondents summarily **CEASE AND DESIST** from soliciting and offering to sell or resell the aforesaid time-share plans or units, either directly or indirectly through officers, directors, employees, representative agent, affiliates, successors or assigns, unless and until compliance with the Act has been achieved and until further Order of the Director.

2. Respondents summarily **CEASE AND DESIST** from contacting West Virginia owners for the purpose of offering services or advertising materials to sell or resell any time-share or time-share related interest.

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<sup>1</sup> The costs which cannot be reasonable specified exactly shall be estimated and the purchaser shall be notified that those costs are subject to change. (W. Va. Code § 36-9-5(c) (2011)).

3. Pursuant to West Virginia Code § 36-9-23(a-e)(1-3), any exemptions from the requirements of the Act claimed by Respondents are hereby summarily **REVOKED AND SUSPENDED** pending final determination of the proceedings herein, and until further Order of the Director.

4. Respondents **SHOW CAUSE** within fifteen (15) days after receipt of this Order, through responding to each and every paragraph set forth herein, why this Order should not be made final and permanent and why Respondents should not be ordered to offer rescission to the purchasers of its services.

5. **NOTICE** is hereby given that Respondent may be afforded a hearing in this matter if a written request is made by Respondent, and such request contains a written response to each and every paragraph contained herein. A request for hearing must be in writing and received by the Director within fifteen (15) days after receipt of this Order. If a timely request for a hearing is made, a hearing on this matter will be set for the purpose of determining whether this Order shall be modified, vacated, or made permanent.

6. If Respondents do not timely show cause or timely request a hearing or fail to attend a duly scheduled hearing in this matter after receiving notice thereof, the allegations contained in this Order will be deemed true without further proof, Respondents shall be deemed in default, and this Order will become final and permanent without further notice to you and a civil penalty shall be imposed in accordance with West Virginia Code § 36-9-23(e)(4)(A) in the amount of ten thousand dollars.


7. Any violation of this Order will constitute a violation of Chapter 36, Article 9, Section 23 of the Act, and if any violation comes to the attention of the Director, the matter will be pursued in the Circuit Court, and Respondents may held liable for further civil or administrative penalties.

This Order does not prevent the West Virginia Land Sales and Condominium Division from seeking such other civil or criminal remedies that may be available to it under the Act.

ENTERED this 6<sup>th</sup> day of June 2012.

Glen B. Gainer III  
Director of Land Sales and Condominiums

By:

  
Megan Wojcik  
Investigator  
West Virginia State Auditor's Office